

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #27-09

Montclair Township, Essex County

WHEREAS, Montclair Township, Essex County, petitioned the Council on Affordable Housing (COAH) on December 19, 2008 for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, Montclair Township published notice of its petition on February 26, 2009 in the *Star Ledger*, which is a newspaper of general circulation within the county, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5; and

WHEREAS, an objection to the plan was received by COAH during the 45-day objection period, which ended April 12, 2009; and

WHEREAS, Fair Share Housing Center submitted an objection on April 9, 2009 and subsequently, withdrew their objection on July 30, 2009; and

WHEREAS, Montclair Township's fair share plan addresses a total 1987-2018 affordable housing obligation of 531 units, consisting of a 369-unit rehabilitation share; however, the Township has provided a survey of the municipal housing stock indicating that the rehabilitation share number should be reduced to 127 units pursuant to COAH's guidelines; therefore, the 1987-2018 affordable housing obligation is 289 units, 127-unit rehabilitation share, 0-unit prior round obligation and a 162-unit projected growth share obligation; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan; and

WHEREAS, Montclair Township has a rehabilitation share of 127 units; and

WHEREAS, Montclair proposes to address its 162-unit projected growth share obligation with 18 credits and 5 rental bonuses for supportive and special needs facilities; 35 credits and 18 rental bonuses for family rental units completed by HOME Corp; two credits for family ownership units completed by HOME Corp; 18 credits for family rental units in the Montclairion; 10 credits for family ownership units in the Siena; 17 credits and 17 compliance bonuses for

family rental units in the Montclair Metro; 1 credit for family ownership in Montclair Bay Street Commons; 2 credits for family ownership in 19 Elmwood Avenue Condos; 2 credits for family ownership in 24 Elm Street Condos; and 4 proposed additional family ownership units at 53-55 New Street; and

WHEREAS, pursuant to N.J.A.C. 5:97-3.2(a)4, Montclair has provided an implementation schedule that demonstrates a realistic opportunity and sets forth a timetable for the submittal of all information and documentation required by N.J.A.C. 5:97-6.7; and

WHEREAS, Montclair Township is requesting a waiver to N.J.A.C. 5:97-9.1, which provides that affordable housing included in a municipal Fair Share Plan shall comply with the Uniform Housing Affordability Controls (UHAC); and

WHEREAS, the municipality is specifically seeking this waiver as it relates to N.J.A.C. 5:80-26.3(b), bedroom distribution; and

WHEREAS, under this provision, an affordable development may have no more than 20 percent of the total low- and moderate-income units as one-bedroom units and must have at least 30 percent as two bedroom units and at least 20 percent as three bedroom units; and

WHEREAS, the municipality addresses the waiver requirements of N.J.A.C. 5:96- 15.2 as follows:

- The waiver fosters the production of affordable housing in that 95% of the affordable units in the Fair Share Plan are built or under construction and the Township will continue to do small scale projects to fulfill the need for affordable family housing;
- The waiver fosters the intent of, if not the letter of, the rules in that there are over 600 affordable units with controls located within the municipality; and
- The housing plan provides a mix of housing options in that it includes new and renovated buildings with age-restricted units, supportive housing beds, rentals in two and three family homes as well as larger buildings and units for sale in condominium developments; and

WHEREAS, when the units addressing Montclair's growth share obligation are considered on a plan-wide basis, the Township meets the bedroom distribution requirements with one exception: there are twelve three-bedroom units provided instead of the required minimum of thirteen units; and

WHEREAS, the municipality intends to address the imbalance through continued support of HOME Corp's gut rehabilitation program in the Township, but with an emphasis on three or more bedroom units designed to accommodate larger families; and

WHEREAS, the Township has submitted a draft Affordable Housing Ordinance (AHO) requiring conformance to UHAC bedroom distribution requirements at the project level going forward; and

WHEREAS, a Task Force was held to consider the Township's waiver request on July 23, 2009, and the Task Force recommended granting the requested waiver; and

WHEREAS, the Council at its meeting on August 12, 2009, is scheduled to take action on the waiver of N.J.A.C. 5:97-9.1 based on the Task Force recommendation; and

WHEREAS, pursuant to N.J.A.C. 5:96-6.2(a)2, on July 31, 2009, COAH issued a Compliance Report (attached as Exhibit A and incorporated by reference herein) recommending approval of Montclair Township's petition for third round substantive certification; and

WHEREAS, the 14-day comment period on the COAH Compliance Report was amended to a 12-day comment period and the parties to mediation consented to the abbreviated comment period pursuant to N.J.A.C. 5:96-6.2(b) and COAH received no comments; and

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by Montclair Township comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that the Council hereby grants Montclair Township a waiver from N.J.A.C. 5:97-9.1, which provides that affordable housing included in a municipal Fair Share Plan shall comply with the Uniform Housing Affordability Controls (UHAC); and

BE IT FURTHER RESOLVED that the waiver is specifically granted from the bedroom distribution requirements of N.J.A.C. 5:80-26.3(b); and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive

certification to Montclair Township; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), Montclair Township shall, within 45 days of this grant of substantive certification, adopt all implementing fair share ordinances, enter into a contract with an administrative agent for the gut rehabilitation program, and submit to COAH an operating manual and adopted affirmative marketing plan for the proposed gut rehabilitation program; and

BE IT FURTHER RESOLVED that if Montclair Township fails to adopt its fair share ordinances or submit the operating manual and adopted affirmative marketing plan for the gut rehabilitation program in a timely manner, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that Montclair shall submit all fair share ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that Montclair shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting Montclair's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of Montclair's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in Montclair and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, Montclair shall

continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), Montclair's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of Montclair Township to provide for the realistic opportunity of its fair share of low and moderate income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was duly adopted by the
Council on Affordable Housing
at its public meeting on August 12, 2009.

A handwritten signature in black ink, reading "Renee Reiss". The signature is written in a cursive, flowing style. The first name "Renee" is written with a large, looping "R" and the last name "Reiss" follows in a similar cursive script.

Renee Reiss, Secretary
Council on Affordable Housing



***Council on Affordable Housing
Compliance Report
July 31, 2009***



Municipality: *Montclair*
County: *Essex*

COAH Region: *2*
Planning Area: *1*
Special Resource Area: *None*

Housing Element and Fair Share Plan Adopted: December 8, 2008
Petition for 3rd Round Substantive Certification: December 19, 2008
Completeness Determination: February 19, 2009
Date of Publication: February 26, 2009

Objections Received: Fair Share Housing Center, April 9, 2009
Objections Withdrawn: Fair Share Housing Center, July 30, 2009

Petition Includes:
 VLA: No
 GPA: No
Waiver: Yes **Section:** N.J.A.C. 5:97-9.1

Date of Site Visit: 7/10/2009

History of Approvals:

	COAH	JOC	N/A
First Round:	6/05/1991		
Second Round:	4/01/1998		
Extended Certification:	2/09/2005		

Plan Preparer: *Karen A. Kadus, PP/AICP, Planning Director*

Municipal Housing Liaison: *Karen A. Kadus, PP/AICP, Planning Director*

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share (Based on survey)	127
Prior Round Obligation	0
Projected Growth Share Obligation	162

ACTUAL GROWTH and GROWTH SHARE through September, 2008¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
172	34.4 units	1,331	83.2 units	118 units

FAIR SHARE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 127 units				
Credits	Post-April 1, 2000	56		56
Program(s)	County		41	41
	HOME Corp		30	30
Rehabilitation Subtotal				127
NEW CONSTRUCTION:				
Prior Round: 0 units				
Growth Share: 162 units				
Credits	Post-1986	146		146
Proposed Mechanism(s)	Municipally Sponsored		4	4
Growth Share Bonus(es)	Compliance	17		17
	Rental	23		23
Growth Share Subtotal				190
Surplus				+28

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. Montclair's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's affordable housing fair share obligation, which is the sum of the rehabilitation share, the prior round obligation and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low or moderate income. As indicated in Appendix B of N.J.A.C. 5:97, Montclair Township has a rehabilitation share of **369 units**; however, the Township has provided a survey of the municipal housing stock indicating that the rehabilitation share number should be reduced pursuant to COAH's guidelines. Montclair estimates their rehabilitation need to be 177. The application of the Low-Moderate Deterioration Number (.714) reduces their rehabilitation share to 127. The Township attributes the higher COAH estimate to permitting two roomers or boarders with no kitchen or cooking facilities to reside within a house. The units are usually located on third floors of residences and may have been counted by the U.S. Census as housing units lacking complete plumbing and kitchen facilities. Upon review of the municipal survey, COAH has determined that it satisfies the requirements of N.J.A.C. 5:97-6.2(a) and warrants a modification of the rehabilitation share to **127 units**; however, if the demand for participation by low and moderate income households is greater than the modified rehabilitation share number the Township, must

allow those households to participate in the rehabilitation program up to the unadjusted rehabilitation share.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. Montclair Township has a prior round obligation of **0**.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) 2004-2018 projections. Pursuant to Appendix F of N.J.A.C. 5:97, Montclair Township has a residential projection of **352 units** and a non-residential projection of **1,459 jobs**, which results in an initial projected growth share obligation of **162 affordable units**. Montclair Township's total projected growth share for the period 1999-2018 is **162 affordable units** consisting of a **70.4-unit** projected residential growth share and a **91.2 -unit** projected non-residential growth share.²

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share (Based on survey)	127
Prior Round Obligation	0
Projected Growth Share Obligation	162

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

² Pursuant to N.J.A.C. 5:97-2.2(d), Montclair's residential projection of 352 is divided by 5 to yield 70.4 units and the non-residential projection of 1,459 jobs is divided by 16 to yield 91.2 units. Montclair's total projected growth share is therefore 162 units (70.4 + 91.2).

Montclair Township submitted a petition for substantive certification on December 19, 2008, and in addition, requested a waiver of N.J.A.C. 5:97-9.1, which requires that affordable housing included in a municipal Fair Share Plan comply with UHAC. As indicated under Section IV of this report, an objection relating to the waiver was filed by Fair Share Housing Center (FSHC) on April 9, 2009. As a result of discussions between the Township and FSHC and in response to FSHC's concerns, Montclair prepared an addendum to its Fair Share Plan (dated July 30, 2009), resulting in the withdrawal of the objection.

Montclair Township's Fair Share Plan, as revised by the July 30th Addendum, and the supporting documentation incorporated by reference therein, addresses the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

Montclair Township is requesting credit for **56 units** rehabilitated subsequent to April 1, 2000. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Rehabilitation Credits

Rehabilitation Program	# Credits
Essex County Housing and Improvement Program	34
Various federal and state programs	22
TOTAL	56

Proposed Rehabilitation Program(s)

Essex County Rehabilitation Program

Montclair Township will continue its participation in the Essex County Housing and Improvement Program (HIP) to address **41 units** of its rehabilitation obligation. The HIP program is funded by Community Development Block Grant (CDBG) money from the U.S Department of Housing and Urban Development (HUD). The purpose of the Housing Improvement Program is to bring owner-occupied dwellings up to local and state building codes. This program is designed to assist low and moderate income owner/occupants of one- and two-

family homes in making necessary repairs to their homes. Eligibility is based on income, family size and type of improvement. Funding is made available as a deferred payment loan. No interest accrues or monthly payments required. A lien is placed on the property, and when it is sold the funds are paid back to the program to assist another Home Owner in the future. The funding maximum for a unit is \$24,500. The municipality anticipates that approximately 4 units/ year would be rehabilitated through HIP.

HOMECorp Rehabilitation Program

Montclair Township will continue its relationship with the non-profit organization, HOMECorp, to address **30 units** of its rehabilitation obligation with gut rehabilitation of units for credit. Gut Rehabilitation or Reconstruction as defined by N.J.A.C. 5:97-1.4 means any project where the extent and nature of the work is such that the work area cannot be occupied while the work is in progress and where a new certificate of occupancy is required before the work area can be reoccupied, pursuant to the Rehabilitation Subcode, N.J.A.C. 5:23-6. Reconstruction shall not include projects comprised only of floor finish replacements, painting or wallpapering, or the replacement of equipment or furnishings. Asbestos hazard abatement and lead hazard abatement projects shall not be classified as reconstruction solely because occupancy of the work area is not permitted. Gut rehabilitation is considered new construction; therefore, the municipality will apply 30 new construction credits resulting from gut rehabilitation towards their rehabilitation share. Affordability controls will be placed on all units. The municipality anticipates that HOMECorp will gut rehabilitate approximately 3 affordable housing units per year. If HOMECorp or HIP does not rehabilitate the anticipated number of affordable housing units per year the Township will fund a municipal program.

Proposed Rehabilitation Program(s)

Rehabilitation Program	# Units
County Rehab Program	41
HOMECorp Rehab Program	30
TOTAL	71

B. Plan to Address Prior Round Obligation

Prior Round Obligation Credits

Montclair Township's Housing Element and Fair Share Plan does not include any prior round obligation credits. The municipality has a prior round obligation of zero.

C. Plan to Address Projected Growth Share

Growth Share Obligation Credits

Montclair Township is addressing the 162 - unit projected growth share obligation with **146 units of credit, 17 compliance bonuses and 23 rental bonuses.** In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Post-1986 Credits

Project/Development Name	Year	Type of Affordable Unit	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
ARC-434 Washington St	1999	Supportive/Special Needs	4 Beds	Rental	1	5
ARC-27 Claremont Ave	1999	Supportive/Special Needs	6 Beds	Rental	1.5	7.5
Covenant House	2008	Supportive/Special Needs	8 Beds	Rental	2	10
Pineridge of Montclair	2002	Age Restricted	40	---	---	40
HOMECorp-55 Glenridge Ave	2007	Family Rental	6	Rental	6	12
HOMECorp-43 Glenridge Ave	2004	Family Rental	2	Rental	2	4
HOMECorp- 14 Mission St	1996	Family Rental	2	---	---	2
HOMECorp-25 Mission St.	1999	Family Rental	2	---	---	2
HOMECorp-53 Mission St	1998	Family Rental	2	---	---	2
HOMECorp- 58 Maple Ave	1994	Family Rental	2	---	---	2
HOMECorp-59 Mission St.	1996	Family Rental	2	---	---	2
HOMECorp-62 Mission	1996	Family Rental	3	---	---	3
HOMECorp-68 Elmwood Ave	2000	Family Rental	2	---	---	2
HOMECorp-24 Miller St.	2000	Family Rental	2	---	---	2
HOMECorp-26 Miller St.	2001	Family Rental	2	Rental	1	3
HOMECorp- 24 Mission St.	2002	Family Rental	2	Rental	1	3
HOMECorp- 16 Miller St.	2002	Family Rental	1	---	---	1
HOMECorp-25 William St.	2006	Family Rental	3	Rental	3	6
HOMECorp-33 William St.	2006	Family Rental	5	Rental	5	10
The Montclairion-10 Pine St	1986	Family Rental	18	---	---	31
Siena- 48 S. Park St.	2008	Family Ownership	10	---	---	20
Montclair Metro- 15 Pine St.	2009	Family Rental	17	Compliance	17	34
HOMECorp- 19 Elmwood Ave	2009	Family Ownership	2		---	2
Montclair Bay Street	2009	Family Ownership	1		---	1

Commons-69-83 Bay St. -						
24 Elm Street Condos -	2009	Family Ownership	2		---	2
TOTALS			146		40	186

HOME Corp-Municipally Sponsored 100% Affordable-Under Construction

Montclair will utilize **19 Elmwood Avenue** to address **one unit** of its projected growth share obligation. The project is located within Block 3111, Lot 30 which was recently created through a subdivision approved by the Planning Board earlier this year. The result was a tax lot with an old accessory building, the second floor of which was an unoccupied dwelling unit and the first floor was storage. HOME Corp will rehab the existing unit on the second floor (for which a rehab credit is sought) and create a dwelling unit on the first floor for the disabled (for which a growth share credit is sought). The municipality has stated the property is zoned for the two-unit project and funding includes development fees, Community Loan Fund and Essex County HOME funding.

Montclair Metro – Compliance Bonus

Montclair is seeking 17 credits and 17 compliance bonuses for **Montclair Metro** towards the Township's projected growth share obligation in accordance with N.J.A.C. 5:97-3.17. The development was granted preliminary and final major site plan and subdivision approvals on July 25, 2005 and is currently under construction. The project was included as an affordable housing mechanism to address the growth share obligation in a third round petition for substantive certification submitted to the Council prior to January 25, 2007. The development will provide 17 affordable units; 9 lows and 8 moderates; 9 one bedrooms and 8 two bedrooms on site. This property was part of a larger area in need of redevelopment and is the last piece to be constructed. **Montclair Metro** is located at 15 Pine Street, within Block 4201, Lot 6.01, a fully improved municipal street with adequate water and sewer access. The 4-story building is in keeping with the uses and scale of surrounding properties. The site was previously zoned UR Urban Renewal (an old redevelopment designation from the 1970s). The zoning was changed when the new redevelopment designation was made. The Township is in Metropolitan Planning Area 1 and has adequate water and sewer capacity for the project. According to the

municipality, the property was tested and cleaned to DEP standards, and no environmental concerns have been identified.

Bedroom Distribution Waiver Request

Montclair Township is requesting a waiver of N.J.A.C. 5:97-9.1, which requires that affordable housing included in a municipal Fair Share Plan comply with UHAC. The municipality is specifically seeking this waiver as it relates to N.J.A.C. 5:80-26.3(b), bedroom distribution. Under this provision, an affordable development may have no more than 20 percent of the total low- and moderate-income units as one-bedroom units and must have at least 30 percent as two bedroom units and at least 20 percent as three bedroom units.

Details of the Township's waiver request and illustrative tables are provided in a letter dated July 1, 2009, submitted by Karen Kadus, PP/AICP, Director of Montclair's Department of Planning and Community Development (Appendix A). In requesting the waiver, the Township notes that when developing its Fair Share Plan, 95% of the affordable units in the Plan were built or under construction. In addition, many of the affordable housing developments that had been approved by the Township were small in scale (four or fewer), making it difficult or impossible to meet the UHAC requirements. Consequently, the Township does not meet the requirements of UHAC at the project level. However, when the units addressing Montclair's growth share obligation are considered on a plan-wide basis, the Township meets the bedroom distribution requirements with one exception: there are twelve three-bedroom units provided instead of the required minimum of thirteen units. The bedroom distribution is illustrated in the following tables submitted by Montclair:

Bedroom Distribution Plan Wide Calculation:

Growth Share- (Age Restricted+ Supportive and Special Needs+ Bonuses)

$162 - (40 + 18 + 40) \rightarrow 162 - 98 = 64$ units addressing obligation

Max. 1 Bedroom: $20\% (64) \rightarrow 12.8 \rightarrow 12$

Min. 2 Bedroom: $30\% (64) \rightarrow 19.2 \rightarrow 20$

Min. 3 Bedroom: $20\% (64) \rightarrow 12.8 \rightarrow 13$

One Bedroom Units Maximum: 12 Units	
<i>Development/Project Name</i>	<i># Units</i>
Siena- 48 S. Park St.	6
The Montclarion-10 Pine St.	6
Total	12

Two Bedroom Units Minimum: 20 Units	
<i>Development/Project Name</i>	<i># Units</i>
The Montclarion-10 Pine St.	8
HOMECorp- 58 Maple Ave	1
HOMECorp-62 Mission	2
HOMECorp- 14 Mission	2
HOMECorp-59 Mission	2
HOMECorp-25 Mission St.	1
HOMECorp-53 Mission St	1
Siena- 48 S. Park St.	4
HOMECorp-43 Glenridge	2
HOMECorp- 53-55 New St	2
Montclair Metro-15 Pine St.	8
24 Elm Street Condo	2
HOMECorp-24 Miller St.	2
HOMECorp-26 Miller St.	2
HOMECorp-24 Mission	1
Total	40
Three Bedroom Units Minimum: 13 Units	
<i>Development/Project Name</i>	<i># Units</i>
HOMECorp- 58 Maple Ave	1
HOMECorp-62 Mission	1
HOMECorp- 53-55 New St	2
HOMECorp-68 Elmwood Ave.	1
HOMECorp-25 Mission St.	1
HOMECorp-53 Mission St	1
The Montclarion-10 Pine St.	3
HOMECorp-24 Mission St	1
HOMECorp-16 Miller St	1
Total	12

To address the imbalance, Montclair intends to continue supporting HOMECorp's gut rehabilitation program in the Township, but with an emphasis on three or more bedroom units designed to accommodate larger families. In addition, the Township has submitted a draft Affordable Housing Ordinance (AHO) requiring conformance to UHAC bedroom distribution requirements at the project level going forward. For smaller projects, the Township may seek a waiver for the project bedroom distribution.

Recommendation

Montclair's waiver request was considered by a COAH Task Force on July 23, 2009. The Task Force recommended that Montclair's waiver request be granted, finding that the Township met the waiver requirement of N.J.A.C. 5:96-15.2 by demonstrating that the

waiving of N.J.A.C. 5:97-9.1 (Affordable housing included in a municipal Fair Share Plan shall comply with the Uniform Housing Affordability Controls (UHAC)) would foster the intent of, if not the letter of, the Council rules. The municipality's Fair Share Plan provides a mix of housing options, including group homes that are available to the special needs population, condos, and apartments, which are open to the general public. In addition, Montclair Township has committed to the creation of three bedroom units through funding HOME Corp's existing gut rehabilitation program.

Proposed Affordable Housing Mechanisms

Montclair proposes to address the Township's projected growth share obligation through the following mechanisms:

HOME Corp-Municipally Sponsored 100% Affordable

Montclair will utilize **53-55 New Street** to address **four units** of its projected growth share obligation. The project is located within Block 3111, Lot 61 and Lot 62. The property is in a neighborhood with one and two-family homes. The property will be developed with two-family houses for a total of four units so that it will blend well with the surrounding buildings. The site is municipally owned and will be sold to the non-profit HOME Corp to build four affordable housing units. It is in a Scattered Site Redevelopment Area in a PA 1 municipality with no environmental issues identified. Two low income units and two moderate income units will be created. The property fronts on an improved municipal street where water and sewer are readily available. According to the municipality, the site is properly zoned; however, Planning Board approval will be required. The municipality submitted an implementation schedule for the completion of the project. **[4 family ownership units]**

Proposed Growth Share Affordable Housing Mechanisms

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
HOME Corp-53-55 New St. Municipally Sponsored 100% Affordable	Ownership	4	---	---	4
TOTALS		4		---	4

Growth Share Parameters

Montclair has satisfied the applicable Growth Share parameters as follows:

Growth Share Rental Obligation:³ 41 Units

Development/Project Name	Type of Affordable Unit	# Units
Pineridge of Montclair	Age Restricted Rental	40
HOME Corp-55 Glenridge Ave.	Family Rental	6
HOME Corp-43 Glenridge Ave.	Family Rental	2
HOME Corp- 14 Mission St	Family Rental	1
HOME Corp-25 Mission St.	Family Rental	1
HOME Corp-53 Mission St	Family Rental	1
HOME Corp- 58 Maple Ave.	Family Rental	1
HOME Corp-59 Mission St.	Family Rental	1
HOME Corp-62 Mission	Family Rental	2
HOME Corp-68 Elmwood Ave	Family Rental	1
HOME Corp-24 Miller St.	Family Rental	1
HOME Corp-26 Miller St.	Family Rental	1
HOME Corp- 24 Mission St.	Family Rental	1
HOME Corp- 25 William St.	Family Rental	3
HOME Corp-33 William St.	Family Rental	5
Montclair Metro-15 Pine St.	Family Rental	17
ARC- 434 Washington St.	Supportive and Special Needs Housing	4
ARC-27 Claremont Ave.	Supportive and Special Needs Housing	6
Covenant House	Supportive and Special Needs Housing	8
The Montclairion-10 Pine Street	Family Rental	18
TOTAL		120

Growth Share Family Rental Requirement⁴ : 21 Units

Development/Project Name	Type of Affordable Unit	# Units
Montclair Metro-15 Pine St.	Family Rental	17
HOME Corp- 58 Maple Ave.	Family Rental	1
HOME Corp-59 Mission St.	Family Rental	1
HOME Corp-62 Mission	Family Rental	2
HOME Corp-55 Glenridge Ave.	Family Rental	6

³ Projected Growth Share Rental Obligation: .25(Projected Growth Share) or .25(162)= 40.5 or 41 units N.J.A.C. 5:97-3.10(b)3

⁴ Projected Growth Share Family Rental Requirement: .5(Projected Growth Share Rental Requirement) or .5(41)= 20.5 or 21 units N.J.A.C. 5:97-3.4(b)

HOMECorp-43 Glenridge Ave.	Family Rental	2
HOMECorp- 14 Mission St	Family Rental	1
HOMECorp-25 Mission St.	Family Rental	1
HOMECorp-53 Mission St	Family Rental	1
HOMECorp-68 Elmwood Ave	Family Rental	1
HOMECorp-24 Miller St.	Family Rental	1
HOMECorp-26 Miller St.	Family Rental	1
HOMECorp- 24 Mission St.	Family Rental	1
HOMECorp- 25 William St.	Family Rental	3
HOMECorp-33 William St.	Family Rental	5
The Montclairion-10 Pine Street	Family Rental*	18
TOTAL		62

Growth Share Minimum Family Requirement⁵ : 61 Units

Development/Project Name	Type of Affordable Unit	# Units
Montclair Metro-15 Pine St.	Family Rental	17
Siena- 48 S. Park St.	Ownership	10
HOMECorp-55 Glenridge Ave.	Family Rental	6
HOMECorp- 53-55 New St.	Ownership	4
HOMECorp-62 Mission	Family Rental	3
24 Elm Street Condo	Ownership	2
HOMECorp-43 Glenridge Ave.	Family Rental	2
HOMECorp- 14 Mission St	Family Rental	2
HOMECorp-25 Mission St.	Family Rental	2
HOMECorp-53 Mission St	Family Rental	2
HOMECorp- 58 Maple Ave.	Family Rental	2
HOMECorp-59 Mission St.	Family Rental	2
HOMECorp-19 Elmwood Ave	Ownership	2
HOMECorp-68 Elmwood Ave	Family Rental	2
HOMECorp-24 Miller St.	Family Rental	2
HOMECorp-26 Miller St.	Family Rental	2
HOMECorp- 24 Mission St.	Family Rental	2
HOMECorp-16 Miller St.	Family Rental	1
HOMECorp- 25 William St.	Family Rental	3
HOMECorp-33 William St.	Family Rental	5
Montclair Bay St. Commons-69-83 Bay St.	Ownership	1
The Montclairion-10 Pine Street	Family Rental	18
TOTAL		92

⁵ Projected Growth Share Family Requirement: .5(Units Addressing the Growth Share Obligation) or .5(122)= 61 units N.J.A.C. 5:97-3.9

Very Low Income Minimum Requirement⁶ : 16 Units

Development/Project Name	Type of Affordable Unit	# Units
ARC	Supportive and Special Needs Housing	4 Beds
ARC	Supportive and Special Needs Housing	6 Beds
Covenant House	Supportive and Special Needs Housing	8 Beds
TOTAL		18

Age-Restricted Maximum⁷ : 40 Units

Development/Project Name	Type of Affordable Unit	# Units
Pineridge of Montclair	Age Restricted Rental	40
TOTAL		40

Bonus Maximum⁸: 40 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
Montclair Metro-15 Pine St.	Compliance	17
Covenant House	Supportive and Special Needs Housing	2
ARC- 434 Washington St.	Supportive and Special Needs Housing	1
ARC-27 Claremont Ave.	Supportive and Special Needs Housing	1.5
HOME Corp-55 Glenridge Ave.	Family Rental	6
HOME Corp-43 Glenridge Ave.	Family Rental	2
HOME Corp- 25 William St.	Family Rental	3
HOME Corp-33 William St.	Family Rental	5
HOME Corp-26 Miller St.	Family Rental	1
HOME Corp- 24 Mission St.	Family Rental	1
TOTAL		40

⁶ Growth Share Very Low Income Requirement: $.13(\text{Growth Share-Bonuses})$ or $.13(122) = 15.86 \rightarrow 16$ units pursuant to P.L.2008, c.46

⁷ Projected Growth Share Age Restricted Maximum: $.25(\text{Projected Growth Share})$ or $.25(162) = 40.5 \rightarrow 40$ units N.J.A.C. 5:97-3.10(c)2

⁸ Projected Bonus Maximum: $.25(\text{Projected Growth Share})$ or $.25(162) = 40.5 \rightarrow 40$ units N.J.A.C. 5:97-3.20 (b)

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) *Construction Reporter* indicates that between January 1, 2004 and September 2008, Montclair issued certificates of occupancy for 34 housing units and for the non-residential square footage equivalent of 83 jobs, yielding an actual growth share obligation through September 30, 2008, of 118 affordable units.⁹

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 127 Units

Rehabilitation Credits: 56

Proposed Rehabilitation Units: 71

Rehabilitation Program	# Credits	# Units
Essex County Housing and Improvement Program	34	41
HOME Corp Rehab Program	---	30
Various federal and state programs	22	---
TOTAL	56	71

PRIOR ROUND SUMMARY

Prior Round Obligation: 0 Units

Montclair has a prior round obligation of zero.

⁹ The number of residential COs 172 is initially divided by 5 to yield 34.4 units and the number of jobs 1,331 is initially divided by 16 to yield 83.2 units. Montclair's total actual growth share is therefore 118 units (34.4 + 83.2). **Note:** This number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

GROWTH SHARE SUMMARY
Projected Growth Share Obligation: 162 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credits	ARC-434 Washington St	4 Beds	Supportive/Special Needs	1	5
	ARC-27 Claremont Ave	6 Beds	Supportive/Special Needs	1.5	7.5
	Covenant House	8 Beds	Supportive/Special Needs	2	10
	Pineridge of Montclair	40	Age Restricted	---	40
	HOME Corp-55 Glenridge Ave	6	Family Rental	6	12
	HOME Corp-43 Glenridge Ave	2	Family Rental	2	4
	HOME Corp- 14 Mission St	2	Family Rental	---	2
	HOME Corp-25 Mission St.	2	Family Rental	---	2
	HOME Corp-53 Mission St	2	Family Rental	---	2
	HOME Corp- 58 Maple Ave	2	Family Rental	---	2
	HOME Corp-59 Mission St.	2	Family Rental	---	2
	HOME Corp-62 Mission	3	Family Rental	---	3
	HOME Corp-68 Elmwood Ave	2	Family Rental	---	2
	HOME Corp-24 Miller St.	2	Family Rental	---	2
	HOME Corp-26 Miller St.	2	Family Rental	1	3
	HOME Corp- 24 Mission St.	2	Family Rental	1	3
	HOME Corp- 16 Miller St.	1	Family Rental	---	1
	HOME Corp-25 William St.	3	Family Rental	3	6
	HOME Corp-33 William St.	5	Family Rental	5	10
	The Montclairion-10 Pine St	18	Family Rental	---	31
	Siena- 48 S. Park St.	10	Family Ownership	---	20
	Montclair Metro-15 Pine St.	17	Compliance	17	34
	HOME Corp-19 Elmwood Ave	2	---	---	2
	Montclair Bay St. Commons- 69-83 Bay St.	1	---	---	1
	24 Elm Street Condo	2	---	---	2
Subtotal		146		40	186
Proposed Mechanisms	HOME Corp- 53-55 New St.	4	---	---	4
Subtotal		4		---	4
TOTAL					190
Surplus					+28

III. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

Montclair Township submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance was approved by COAH on June 16, 2009.

B. Third Round Spending Plan

A revised third round spending plan was submitted by Montclair Township with their third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

Montclair has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has been amended to comply with the barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution appointing a municipal housing liaison were adopted by the municipality on September 27, 2005 and approved by COAH on July 11, 2007.

D. Affirmative Marketing Plan

Montclair has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the units in the municipality's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. Once approved by COAH, the affirmative marketing plan must be adopted by resolution by the municipality within 45 days of COAH's grant of substantive certification and submitted to COAH.

IV. OBJECTION (WITHDRAWN)

During the 45-day comment/objection period, an objection dated April 9, 2009, was received from Fair Share Housing Center (FSHC). FSHC's objection acknowledged Montclair's commitment to affordable housing and its success at achieving racially and economically integrated neighborhoods but raised two areas of concern: the bedroom distribution waiver requested by the Township, and the very low income requirement pursuant to the amended Fair Housing Act (N.J.S.A. 52:27D-329.1). After discussions with Montclair representatives, FSHC withdrew the objection based upon representations made by the Township, as outlined in Montclair's plan addendum (Appendix A).

V. MONITORING

As indicated above, credits for built units will be validated and verified by COAH staff during monitoring prior to the first biennial plan evaluation. It should be noted that credits for affordable housing programs and/or affordable units must be in compliance with N.J.A.C. 5:97-4. If the units are determined not to be eligible for credit, COAH will notify Montclair in writing and the Township may be directed to amend its certified plan to address the shortfall.

Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of Montclair Township's Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If upon any biennial review the difference between the number of affordable units constructed or provided in Montclair and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct the municipality to amend its plan to address the shortfall.

VI. RECOMMENDATION

COAH staff recommends that Montclair Township be granted third round substantive certification. Montclair Township must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption. Also within 45 days of the grant of substantive certification, the Township must enter into a contract with an administrative agent for the gut rehabilitation program and submit to COAH an operating manual and affirmative marketing plan for the gut rehabilitation program in accordance with N.J.A.C. 5:80-26.14(b).